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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,784	12/09/2003	Robert G. McNiece	LUCE001US0	4903
37141	7590	07/12/2005	EXAMINER	
FORTKORT GREATHER + KELTON LLP 8911 N. CAPITAL OF TEXAS HWY. SUITE 3200 AUSTIN, TX 78759			TRAN, THANG V	
			ART UNIT	PAPER NUMBER
			2653	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/731,784

Applicant(s)

MCNIECE, ROBERT G.

Examiner

Thang V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11,12,14-19 and 29-71 is/are pending in the application.
- 4a) Of the above claim(s) 11,12,14-19 and 29-38 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 63-71 is/are allowed.
- 6) ☒ Claim(s) 39-55 and 57-62 is/are rejected.
- 7) ☒ Claim(s) 56 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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The communication dated 04/28/05 has been considered with the following results:

*Election/Restrictions*

1. Claims 11, 12, 14-19, 29-38 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/28/05.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 39-41, 47, 52, 53, 54, 55 and 58-62 are rejected under 35 U.S.C. 102(e) as being anticipated by Vo-Dinh (US 6,614,730).

Regarding claim 39, see Figs. 10-12 of Vo-Dinh which discloses a data storage system in which first and second data storage media (109, 110) are provided; electromagnetic radiation (beams 104-107) are simultaneously directed onto the surfaces of the first and second data storage media; and reflection of the electromagnetic radiation from the first and second data storage media area received by detector (130) as a multi-dimensional data stream.

Regarding claims 40 and 41, see the reflection beams shown in Fig. 10 or 12

Regarding claims 47, the limitation in this claim is inherently included in the data stream of Vo-Dinh since the data reproduced from the storage media is binary data.

Regarding claim 52, see medium 109, 110 in Fig. 10.

Regarding claim 53, see the rejection applied to claim 39.

Regarding claim 54, see the beam signal and the surface of the recording medium 109 and 110 in Fig. 11.

Regarding claim 55, see the rejection applied to claim 47.

Regarding claims 58-62, see medium 109, 110 in Fig. 10 or 11 and the relative light beams directed thereto.

4. Claims 39-55 and 57-62 are rejected under 35 U.S.C. 102(b) as being anticipated by Komma et al (US 5,446,565).

Regarding claim 39, see Fig. 21 or 62 of Komma et al. which discloses a data reproducing apparatus in which first and second data storage media (23, 25) are provided; electromagnetic radiation (beams L4, L5) are simultaneously directed onto the surfaces of the first and second data storage media by lens (27); and reflection of the electromagnetic radiation (beams L4R, L5R) from the first and second data storage media area received by detector (57) as a multi-dimensional data stream.

Regarding claims 40 and 41, see Fig. 24.

Regarding claims 42, see element 26 in Fig. 21.

Regarding claims 43 and 41, see Fig. 19b or 20.

Regarding claims 44, see camera 199 in Fig. 61.

Regarding claims 45, see element 56 in Fig. 24 where the reflected radiation beam is transformed into.

Regarding claims 46, see detector 57 shown in Fig. 24.

Regarding claims 47, the limitation in this claim is inherently included in the data stream of Komma since the data reproduced from the storage media is binary data.

Regarding claims 48-51, the limitations in these claim is inherently included in medium in Fig. 21 based on the detection of three beam shown in Fig. 24.

Regarding claim 52, see medium 202 or 203 in Fig. 62.

Regarding claim 53, see the rejection applied to claim 39.

Regarding claim 54, see the beam signal (L4, L5) from beam signal L3 and the surface of the recording medium 23 and 25.

Regarding claim 55, see the rejection applied to claim 47.

Regarding claim 57, see circuit 207 in Fig. 62

Regarding claims 58-60 and 62, see medium 202 or 203 in Fig. 63.

Regarding claim 61, the limitation in this claims is inherently include in Fig. 21 of Komma based on the detection of three beam shown in Fig. 24.

#### ***Allowable Subject Matter***

5. Claims 63-71 are allowed over the prior art of record because the prior art of record, considered in combination or individually, fails to suggest or fairly teach a data retrieval system including a combination of all features as particularly recited in claim 63. Claims 64-71 are allowed with their respective parent claim.

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6. Claim 56 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 56 is allowable over the prior art of record because the prior art of record, considered in combination or individually, fails to suggest or fairly teach a multi-dimensional data generating method including a combination of all limitations as particularly recited therein.

*Cited References*

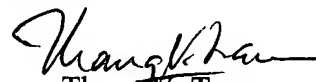
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references relate to an storage device for reading multi-dimensional data from a plurality of media.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thang V. Tran whose telephone number is (571) 272-7595. The examiner can normally be reached on M-F 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (571) 272-7589. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thang W. Tran  
Primary Examiner  
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